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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/713,964	11/14/2003	Jeremy Bem	Google-61APP (GP-151-01-U	3187
26479	7590	05/04/2006	EXAMINER	
STRAUB & POKOTYLO 620 TINTON AVENUE BLDG. B, 2ND FLOOR TINTON FALLS, NJ 07724			GORTAYO, DANGELINO N	
			ART UNIT	PAPER NUMBER
			2168	

DATE MAILED: 05/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/713,964	<b>Applicant(s)</b> BEM, JEREMY	
	<b>Examiner</b> Dangelino N. Gortayo	<b>Art Unit</b> 2168	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 November 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. Claims 1-42 are pending.

#### ***Specification***

2. The abstract of the disclosure is objected to because the bracket starting on line 10 of the abstract does not have a matching closing bracket. Correction is required.  
See MPEP § 608.01(b).

#### ***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 1-42 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. For an invention to be statutory, an invention must disclose a "useful, tangible, and concrete result". The claimed invention as a whole must be useful and accomplish a practical application. That is, it must produce a "useful, concrete and tangible result." *State Street*, 149 F.3d at 1373-74, 47 USPQ2d at 1601-02. The purpose of this requirement is to limit patent protection to inventions that possess a certain level of "real world" value, as opposed to subject matter that represents nothing more than an idea or concept, or is simply a starting point for future investigation or research (*Brenner v. Manson*, 383 U.S. 519, 528-36, 148 USPQ 689,

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693-96 (1966)); In re Fisher, 421 F.3d 1365, 76 USPQ2d 1225 (Fed. Cir. 2005); In re Ziegler, 992 F.2d 1197, 1200-03, 26 USPQ2d 1600, 1603-06 (Fed. Cir. 1993)).

Independent claims 1 and 8 recite the limitation “a method”, and are drawn to an abstract idea. Independent claims 22 and 29 recite the limitation “apparatus” and are drawn to an abstract idea and fails to recite hardware to make it tangible. In addition, the recited limitations in the claim body, “accepting”, “determining”, and “generating” all can be done by a human with a piece of paper and a pencil. Since it does not fall within the four statutory categories, the claims above constitute an idea.

Claims 2-7 which further limit independent claim 1, claims 9-21 which further limit independent claim 8, Claims 23-28 which further limit independent claim 22, and claims 30-42 which further limit independent claim 29 all have the outlined deficiencies inherent in them, and are similarly rejected.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-42 are rejected under 35 U.S.C. 102(e) as being anticipated by Bailey et al. ("Bailey" US Patent 6,785,671 B1).

As per claim 1, Bailey teaches "a) accepting search query information including a word;" (column 4 lines 28-34, wherein a user query is accepted by a web server application) "b) determining one or more words related to the word included in the accepted search query;" (column 6 lines 15-36, several other keywords including product category is extracted from the user query) "c) generating an item request including i) the word included in the accepted search query," (column 7 lines 14-20, wherein the query is used to generate query results containing a list of items matching the query) "and ii) the one or more words determined to be related to the word included in the accepted search query;" (column 6 lines 28-46, wherein keywords extracted from the query, including category information, are used to generate and organize query results for items) "d) retrieving items using the item request;" (column 7 line 64 – column 8 line 3, wherein item information are used to organize a query result page showing items relevant to the query) "and e) applying each of the retrieved items to a performance threshold, wherein the performance of any items retrieved on the basis of the one or more words determined to be related to the word included in the accepted search query is applied to a higher performance threshold than the performance threshold used for any items retrieved on the basis of the word included in the accepted search query." (column 9 line 56 – column 10 line 15, wherein the product score values

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are used to fetch relevant items, and wherein the more relevant category is presented first)

As per claim 2, Bailey teaches “the act of applying each of the retrieved items to a performance threshold includes adjusting the performance threshold for any items retrieved on the basis of the one or more words determined to be related to the word included in the accepted search query.” (column 16 lines 15-29, wherein a relevance ranking based on product score values is adjusted)

As per claim 3, Bailey teaches “the act of adjusting the performance threshold includes multiplying a first performance threshold by a multiplier that is greater than one.” (column 22 lines 22-35, wherein weighting factors of one or greater are used to adjust the product score)

As per claim 4, Bailey teaches “f) updating the multiplier using performance information.” (column 22 lines 33-44, wherein the weighting factor is adjusted based on the profile of the user’s actions)

As per claim 5, Bailey teaches “the items are ads.” (column 4 line 49 – column 5 line 9, wherein the items fetched are product information for sale from a third party, equivalent to ads)

As per claim 6, Bailey teaches “the performance information includes ad selection information.” (column 18 lines 38-44, wherein the scores are affected based on user actions, including link selection offering a sale of item)

As per claim 7, Bailey teaches “the performance information includes ad conversion information.” (column 22 lines 39-44, wherein the score and weighting is based on prior purchases from the link)

As per claim 8, Bailey teaches “a) accepting search query information;” (column 4 lines 28-34, wherein a user query is accepted by a web server application) “b) determining relevant items using the search query information and item targeting information, wherein the act of determining each relevant item includes associating the items with a confidence measure;” (column 16 lines 15-29, wherein relevant items are returned to the user, prioritized based on a determination of relevance and product score) “and c) applying each of the relevant items to a performance threshold, wherein for a given item, the performance threshold is a function of the confidence measure associated with the determination of relevance of the item.” (column 9 line 56 – column 10 line 15, wherein the product score values are used to fetch relevant items, and wherein the more relevant category is presented first)

As per claim 9, Bailey teaches “the performance threshold increases as the confidence measure decreases.” (column 22 lines 22-35, wherein as the weighting factor decreases, the item becomes less relevant and less likely to be shown to the user)

As per claim 10, Bailey teaches “the performance threshold decreases as the confidence measure increases.” (column 22 lines 22-35, wherein as the weighting factor increases, the item becomes more relevant and more likely to be shown to the user)

As per claims 11 and 12, Bailey teaches “the item is an ad and wherein the performance threshold is an ad selection rate threshold value.” (column 18 lines 38-44, wherein the scores are affected based on user actions, including link selection offering a sale of item)

As per claim 13 and 14, Bailey teaches “the item is an ad and wherein the performance threshold is an ad conversion rate threshold value.” (column 22 lines 39-44, wherein the score and weighting is based on prior purchases from the link)

As per claim 15, Bailey teaches “the act of determining relevant items uses the search query information, item targeting information, and at least one match function, and wherein the confidence measure is determined based on the at least one match function used in the act of determining relevant items.” (column 16 lines 15-44, wherein relevant items are returned to the user, prioritized based on a determination of relevance, product score, and category information linking it to related products)

As per claim 16, Bailey teaches “the performance threshold increases as the confidence measure decreases.” (column 22 lines 22-35, wherein as the weighting factor decreases, the item becomes less relevant and less likely to be shown to the user)

As per claim 17, Bailey teaches “the performance threshold decreases as the confidence measure increases.” (column 22 lines 22-35, wherein as the weighting factor increases, the item becomes more relevant and more likely to be shown to the user)

As per claim 18 and 19, Bailey teaches “the item is an ad and wherein the performance threshold is an ad selection rate threshold value.” (column 18 lines 38-44,



wherein the scores are affected based on user actions, including link selection offering a sale of item)

As per claim 20 and 21, Bailey teaches “the item is an ad and wherein the performance threshold is an ad conversion rate threshold value.” (column 22 lines 39-44, wherein the score and weighting is based on prior purchases from the link)

As per claim 22, Bailey teaches “) an input for accepting search query information including a word;” (column 4 lines 28-34, wherein a user query is accepted by a web server application) “b) means for determining one or more words related to the word included in the accepted search query;” (column 6 lines 15-36, several other keywords including product category is extracted from the user query) “c) means for generating an item request including i) the word included in the accepted search query,” (column 7 lines 14-20, wherein the query is used to generate query results containing a list of items matching the query) “and ii) the one or more words determined to be related to the word included in the accepted search query;” (column 6 lines 28-46, wherein keywords extracted from the query, including category information, are used to generate and organize query results for items) “d) means for retrieving items using the item request;” (column 7 line 64 – column 8 line 3, wherein item information are used to organize a query result page showing items relevant to the query) “and e) means for applying each of the retrieved items to a performance threshold, wherein the performance of any items retrieved on the basis of the one or more words determined to be related to the word included in the accepted search query is applied to a higher

performance threshold than the performance threshold used for any items retrieved on the basis of the word included in the accepted search query.” (column 9 line 56 – column 10 line 15, wherein the product score values are used to fetch relevant items, and wherein the more relevant category is presented first)

As per claim 23, Bailey teaches “the means for applying each of the retrieved items to a performance threshold include means for adjusting the performance threshold for any items retrieved on the basis of the one or more words determined to be related to the word included in the accepted search query.” (column 16 lines 15-29, wherein a relevance ranking based on product score values is adjusted)

As per claim 24, Bailey teaches “the means for adjusting the performance threshold include means for multiplying a first performance threshold by a multiplier that is greater than one.” (column 22 lines 22-35, wherein weighting factors of one or greater are used to adjust the product score)

As per claim 25, Bailey teaches “f) means for updating the multiplier using performance information.” (column 22 lines 33-44, wherein the weighting factor is adjusted based on the profile of the user’s actions)

As per claim 26, Bailey teaches “the items are ads.” (column 4 line 49 – column 5 line 9, wherein the items fetched are product information for sale from a third party, equivalent to ads)

As per claim 27, Bailey teaches “the performance information includes ad selection information.” (column 18 lines 38-44, wherein the scores are affected based on user actions, including link selection offering a sale of item)

As per claim 28, Bailey teaches “the performance information includes ad conversion information.” (column 22 lines 39-44, wherein the score and weighting is based on prior purchases from the link)

As per claim 29, Bailey teaches “a) an input for accepting search query information;” (column 4 lines 28-34, wherein a user query is accepted by a web server application) “b) means for determining relevant items using the search query information and item targeting information and for associating the items with a confidence measure;” (column 16 lines 15-29, wherein relevant items are returned to the user, prioritized based on a determination of relevance and product score) “and c) means for applying each of the relevant items to a performance threshold, wherein for a given item, the performance threshold is a function of the confidence measure associated with the determination of relevance of the item.” (column 9 line 56 – column 10 line 15, wherein the product score values are used to fetch relevant items, and wherein the more relevant category is presented first)

As per claim 30, Bailey teaches “the performance threshold increases as the confidence measure decreases.” (column 22 lines 22-35, wherein as the weighting factor decreases, the item becomes less relevant and less likely to be shown to the user)

As per claim 31, Bailey teaches “the performance threshold decreases as the confidence measure increases.” (column 22 lines 22-35, wherein as the weighting factor increases, the item becomes more relevant and more likely to be shown to the user)

As per claim 32 and 33, Bailey teaches “the item is an ad and wherein the performance threshold is an ad selection rate threshold value.” (column 18 lines 38-44, wherein the scores are affected based on user actions, including link selection offering a sale of item)

As per claim 34 and 35, Bailey teaches “the item is an ad and wherein the performance threshold is an ad conversion rate threshold value.” (column 22 lines 39-44, wherein the score and weighting is based on prior purchases from the link)

As per claim 36, Bailey teaches “the means for determining relevant items use the search query information, item targeting information, and at least one match function, and wherein the confidence measure is determined based on the at least one match function used by the means for determining relevant items.” (column 16 lines 15-44, wherein relevant items are returned to the user, prioritized based on a determination of relevance, product score, and category information linking it to related products)

As per claim 37, Bailey teaches “the performance threshold increases as the confidence measure decreases.” (column 22 lines 22-35, wherein as the weighting factor decreases, the item becomes less relevant and less likely to be shown to the user)

As per claim 38, Bailey teaches “the performance threshold decreases as the confidence measure increases.” (column 22 lines 22-35, wherein as the weighting factor increases, the item becomes more relevant and more likely to be shown to the user)

As per claim 39 and 40, Bailey teaches “the item is an ad and wherein the performance threshold is an ad selection rate threshold value.” (column 18 lines 38-44,

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wherein the scores are affected based on user actions, including link selection offering a sale of item)

As per claim 41 and 42, Bailey teaches "the item is an ad and wherein the performance threshold is an ad conversion rate threshold value." (column 22 lines 39-44, wherein the score and weighting is based on prior purchases from the link)

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Angles et al. (US Patent 5,933,811 A)

Merriman et al. (US Patent 5,948,061 A)

Bowman et al. (US Patent 6,185,558 B1)

Herz (US Patent 6,460,036 B1)

Koeppel et al. (US Patent 6,477,575 B1)

Graham (US Patent 6,631,372 B1)

Graham et al. (US Patent 6,804,659 B1)

Foster et al. (US Publication 2004/0260621 A1)

McElfresh et al. (US Patent 6,907,566 B1)

Radwin (US Patent 7,007,074 B2)

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dangelino N. Gortayo whose telephone number is (571)272-7204. The examiner can normally be reached on M-F 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tim T. Vo can be reached on (571)272-3642. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dangelino N. Gortayo  
Examiner

A handwritten signature in black ink, appearing to read 'Tim Vo', with a long, sweeping horizontal stroke extending to the left.

Tim T. Vo  
SPE